

# MAURITIUS 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Mauritius is a multiparty democracy governed by the prime minister, the Council of Ministers, and the National Assembly. International and local observers judged elections for the prime minister and legislators in 2019 to be free and fair. The coalition headed by the incumbent prime minister won a majority of seats.

The national police are responsible for law enforcement and maintenance of order within the country. A police commissioner heads the police force and has authority over all police and other security forces, including the Coast Guard and Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The national police report to the Ministry of Defense. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included credible reports of: arbitrary arrest; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including censorship and the existence of criminal libel laws; serious government corruption; lack of investigation of and accountability for gender-based violence; and crimes involving violence or threats of violence targeting members of racial or ethnic minority groups.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government. Enforcement of prosecution and punishment was inconsistent and sometimes politically influenced, resulting in impunity.

The government took steps to investigate officials accused of corruption, but cases rarely resulted in convictions, implying impunity.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically**

## **Motivated Killings**

Unlike the previous year, there were no reports that the government or its agents allegedly committed arbitrary or unlawful killings.

Police arrested 11 prison guards from the Correctional Emergency Response Team for the May 2020 killing of inmate Jean Cael Permes at the high security prison in Phoenix. Nine guards were put on administrative leave, and two opted for early retirement. There were no further developments at year's end. The postmortem examination revealed that Permes died of hemorrhagic shock after being hit on various parts of the body with a blunt object.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices, but there continued to be allegations of police abuse, through either official complaints or allegations made on the radio or in the press.

Impunity was a significant problem for police, and investigations involving officers often continued for years. While disciplinary actions against offending officers took place, dismissals or prosecutions were rare.

### **Prison and Detention Center Conditions**

While conditions did not always meet international standards, there were no significant reports regarding prison or detention center conditions that raised human rights concerns.

**Physical Conditions:** There was some overcrowding in the prisons. The nongovernmental organization (NGO) World Prison Brief reported that in October prisons held 2,749 detainees in facilities designed to hold 2,315 persons. There were reports prison officials failed to provide timely and adequate medical assistance. In its 2020 report, the National Preventive Mechanism Division

(NPMD) of the National Human Rights Commission (NHRC) reported that new COVID-19 protocols improved hygiene problems in prison facilities. Authorities provided more soap to inmates to counter the spread of the virus; however, the NPMD noted that water and sanitary conditions remained a problem in police station cells.

**Administration:** The NHRC claimed every prisoner complaint was dealt with expeditiously. In its 2020 report, the NPMD received 94 complaints from prison inmates; 65 were resolved, and 29 remained under investigation. During the COVID-19 confinement period from March 10 to May 1, prisons did allow visits but limited them to one visitor per inmate.

**Independent Monitoring:** The government permitted prison visits by independent nongovernmental observers, including the press, the NPMD, independent local NGOs, the EU, and other foreign missions.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these legal requirements.

##### **Arrest Procedures and Treatment of Detainees**

The constitution and law require arrest warrants be based on sufficient evidence and issued by a magistrate. A provisional charge based on a reasonable suspicion, however, allows police to detain an individual up to 21 days with the concurrence of a magistrate. If authorities grant bail but the suspect is unable to pay, authorities detain the suspect in the Grand River North West Prison pending trial. Authorities must advise the accused of his or her rights, including the right to remain silent and the right to an attorney. The law requires authorities to arraign suspects before the local district magistrate within 48 hours of arrest. Police generally respected these rights, although they sometimes delayed suspects' access to defense counsel.

Detainees generally had prompt access to family members, but minors and those not advised of their rights were less likely to obtain such access. A magistrate may release an individual on bail the day of arrest, with or without police consent.

Authorities may detain individuals charged with drug trafficking for up to 36 hours

without access to legal counsel or bail. Courts granted bail for most alleged offenses. There were no reports that any suspects were detained incommunicado or for a prolonged period without access to an attorney.

**Arbitrary Arrest:** During the year police arrested three lawyers involved in the 2020 investigation into the death of Soopramanien Kistnen on various charges. Kistnen was a political operative for the Militant Socialist Movement governing party and was found dead in unexplained circumstances after reportedly threatening to denounce a corruption case to the Independent Commission Against Corruption. The lawyers, all outspoken critics of the government, alleged the arrests were government harassment. For example, on May 17, police arrested lawyer Rama Valayden at his home at 2 a.m. for allegedly breaking COVID-19 restrictions during a peaceful rally in favor of Palestinians on May 16. On May 17, police also arrested lawyer Shahzaad Mungroo. Police questioned both lawyers and later released them on bail. There were no further developments at year's end.

On December 17, police arrested Roshi Bhadain, another lawyer in the Kistnen case, for alleged involvement in a 2011 robbery. Authorities released Bhadain on bail, and the investigation continued at year's end.

On September 29, following the September 2020 arrest of political activist Bruneau Laurette for an alleged bounced check, the Office of the Director of Public Prosecutions (ODPP) dropped the case for lack of evidence.

**Pretrial Detention:** According to data from the ODPP, the NHRC, and the Bureau of Prisons, due to a backlogged court system and detainees' inability to post bail, a significant percentage of the prison population remained in pretrial detention. As of October 26, 60 percent of detainees were pretrial detainees, according to the NGO World Prison Brief. Lawyers reported in 2020 that approximately 40 percent of pretrial detainees typically remained in custody for at least three years before going to trial. Judges routinely credited time served in custody against sentences ultimately imposed. The length of pretrial detention did not always exceed the maximum sentence for the alleged crime.

## **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government

generally respected judicial independence and impartiality.

### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. Criminal defendants enjoy a presumption of innocence. Defendants have the right to prompt and detailed information on the charges against them, with free interpretation as necessary from the moment charged through all appeals. Trials were typically not timely. Defendants have the right to be present at their trials and to consult an attorney in a timely manner. An attorney is provided at public expense when indigent defendants face felony charges. Defendants have the right to adequate time and facilities to prepare a defense, to confront or question prosecution or plaintiff witnesses against them, and to present witnesses and evidence on their own behalf. Defendants have the right also not to be compelled to testify or confess guilt, and to present an appeal. The law extends these rights to all citizens. The courts respected these rights, although the extensive case backlog significantly delayed the process.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters. The law provides access to a court to bring lawsuits seeking damages for human rights abuses. It also provides for individuals to seek civil remedies for such abuses. The government respected courts' decisions. As an alternative to the judicial system, the constitution provides for an ombudsman to investigate complaints from the public and members of the National Assembly against government institutions and to seek redress for injustices committed by a public officer or other authority acting in an official capacity. The ombudsman may make recommendations but may not impose penalties on a government agency. After exhausting all local appeals, individuals or organizations may appeal decisions to the United Kingdom's Privy Council, which is the highest court of appeal.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, but the government did not always respect these prohibitions. There were continuing unsubstantiated claims police tapped telephones, emails, and offices of journalists and opposition politicians. Freedom House noted complaints that the law allows monitoring of private online speech and provides penalties for false, harmful, or illegal statements online (see section 2.a.). There were unsubstantiated reports that authorities used cell phone data to track persons' locations without a judicial warrant.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for members of the press and other media, but the government did not always respect this right. The law prevents internet users from posting anything that could cause “annoyance, humiliation, inconvenience, distress or anxiety to any person” on social media. Anyone found guilty faces up to 10 years' imprisonment.

**Freedom of Expression:** Mauritians enjoyed broad freedom of expression, however in certain cases individuals were restricted from criticizing the government or from discussing matters of public interest. This included restrictions from laws that criminalize “hate speech.”

Police arrested three lawyers working on the 2020 court investigation into the death of Soopramanien Kistnen during the year after the lawyers criticized the government or tried to or held peaceful protests (see sections 1.d. and 2.b.).

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** Independent media were active and expressed a wide variety of views, although governments in the past have used their power to harass journalists.

The government owned the sole domestic television network, MBC TV.

Opposition parties and media commentators regularly criticized the station for its allegedly progovernment bias and unfair coverage of opposition parties, as well as alleged interference in the network's daily operations by the senior adviser in the Prime Minister's Office. Stringent limitations in the law on foreign investment in local broadcast media deter the establishment of independent television stations.

On November 30, parliament passed the Independent Broadcasting Authority (IBA) Amendment Act, tripling private radio license fees, quintupling broadcasting violation fees, and creating a government-appointed oversight panel. The law sparked protests inside and outside parliament, and opposition politicians claimed the law targets the private radio stations that have reported extensively on government corruption scandals. The law also allows the IBA director to request that a judge order a person to turn over records, which includes journalists revealing sources.

**Violence and Harassment:** There were reports that relatives of journalists faced punitive job transfers in retaliation for the journalists' criticism of the government.

**Censorship or Content Restrictions:** Opposition politicians and activists reported their social media accounts were routinely blocked and antigovernment postings or comments removed.

On December 25, the state-run Mauritius Broadcasting Corporation removed parts of the Christmas message delivered by the head of the Roman Catholic Archdiocese that described the pandemic's effects on society, including the deaths of loved ones, disrupted schooling, and a crumbling economy.

The government maintained its 1989 ban of *The Satanic Verses* by Salman Rushdie and the *Rape of Sita* by Lindsey Collen. While bookstores could not legally import the books, persons could buy them online without difficulty.

**Libel/Slander Laws:** Libel, slander, and defamation are criminal offenses. The law has blasphemy provisions that criminalize "outrage against any religion legally established." During the year there were no reports of prosecutions for blasphemy.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet. There were continuing anecdotal reports, however, that police tapped cell phones and emails of journalists and opposition politicians and blocked or censored some social media comments without appropriate legal authority (see Censorship or Content Restrictions).

In April the government proposed via public consultation a government-led filter of all incoming and outgoing social media content. Officials withdrew the proposal after Facebook agreed to monitor traffic in Mauritian Creole.

On December 10, a new cybersecurity and cybercrime bill took effect. Opposition politicians criticized the law's vague language, suggesting it gives authorities too broad a mandate to crack down on online content they deemed harmful. They also noted that any criticism would fall under the law's purview if the target of that criticism believed they were "harmed" in any way or if the target considered the comment inaccurate. In addition, the legislation increases the power of law enforcement officials to seize any computer system or device.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **Freedom of Peaceful Assembly**

The constitution and law provide for the freedom of peaceful assembly, and the government generally respected this right. Police did, however, arrest three lawyers working on the 2020 court investigation into the death of Soopramanien Kistnen after the lawyers tried to hold or held peaceful protests (see section 1.d., Arbitrary Arrest).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

**Foreign Travel:** In cases where individuals were arrested and released on bail, the government generally seized the person's passport and issued an order prohibiting such individuals from leaving the country.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

There were no reports that the government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, or other persons of concern.

**Access to Asylum:** The law does not provide for the granting of asylum or refugee status, and the government has not established a system providing protection to refugees.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** International and local observers characterized National

Assembly elections held in 2019 as free and fair. The coalition headed by the incumbent prime minister won a majority of seats. The constitution provides for filling 62 National Assembly seats by election. The constitution also allows the Electoral Supervisory Commission to allocate up to eight additional seats to unsuccessful candidates from minority communities that are underrepresented, based on the 1972 census, through a procedure known as the Best Loser System (BLS). Various political observers claimed the BLS undermined national unity and promoted discrimination.

**Political Parties and Political Participation:** Political parties operated without restriction or outside interference. Opposition parties, however, have long alleged that MBC TV favored whichever group was in power.

**Participation of Women and Members of Minority Groups:** No law limits participation of women or members of minority groups in the political process, and they did participate. In 2015 Ameenah Gurib-Fakim became the first female president of the country. She resigned in 2018 due to allegations of corruption. The law promotes the participation of women in local government by requiring that at least one of three candidates contesting elections in each ward or village be of a gender different from the others. One-third of elected candidates in the 2012 village and municipal elections were women. The law is silent, however, concerning gender balance in national legislative elections. Following the 2019 legislative elections, women constituted 20 percent of elected members of the National Assembly and 12 percent of the cabinet, an increase from 11 percent and 8 percent, respectively.

The constitution mandates that candidates for legislative elections declare their ethnicity to calculate the BLS. One political party and several independent candidates refused to declare their ethnicities before the 2019 elections on the grounds that doing so was undemocratic. The Supreme Court ruled against them, and election authorities did not include them on the ballots.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government

did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were isolated reports of government corruption during the year.

**Corruption:** In February, Minister of Commerce and Consumer Protection Yogida Sawmynaden resigned but kept his parliamentary seat after a woman accused him of creating a phantom job in her name and then pocketing the salary. The woman was the widow of political insider Soopramanien Kistnen, who died in October 2020 under suspicious circumstances. Lawyers for the Kistnen family suggested that his death was linked to corrupt procurement contracts for COVID-19 supplies and medical equipment in 2020. Police began investigations into several contracts for medical supplies from companies that had no previous medical background but had personal connections to the government.

On December 17, three senior civil service officers opted for early retirement after a parliamentarian revealed that the Ministry of Health bought COVID-19 medication at a price four times higher than the price paid for another batch of the same medication procured the day before. The Independent Commission Against Corruption started an investigation that continued at year's end.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views; however, there were reports that relatives of human rights activists faced punitive job transfers in retaliation for the activists' criticism of the government.

**Government Human Rights Bodies:** The president appoints an ombudsman to investigate complaints against public servants, including police officers and prison guards. Individual citizens, council ministers, or members of the National Assembly may request the ombudsman to initiate an investigation. As an alternative to filing judicial charges, the ombudsman may make recommendations

to the appropriate government office for administrative responses to offenses committed by a public officer or other authority carrying out official duties. The ombudsman was independent and was adequately resourced and effective.

The Equal Opportunities Commission investigates allegations of discrimination and promotes equality of opportunity in both the private and public sectors. The commission was independent and was adequately resourced and effective.

The NHRC enjoyed the government's cooperation and operated without government or party interference.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law prohibits rape, including of men. Although the law does not mention spousal rape, it stipulates that a spouse cannot force or threaten the other partner into a sexual act “from which the spouse or the other person has the right to abstain.”

Police and the judicial system did not effectively enforce the law, according to local NGOs that work with domestic violence survivors. The penalty for rape is up to 20 years' imprisonment, with a substantial monetary fine. Rape cases rarely make the headlines unless they are egregious in nature.

The law criminalizes domestic violence, but it remained a major problem. The term “spouse” unmarried couples of the opposite sex; defines “domestic violence” to include verbal, psychological, economic, and sexual abuses; and empowers officers to act on behalf of the survivors instead of waiting for a formal complaint from the survivor.

The government did not consistently enforce the law. According to women's rights NGOs, police were not always effective in protecting domestic violence survivors to whom authorities had granted court protection orders. Authorities prosecuted crimes including assault, aggravated assault, threats, and blows under the criminal code, but law enforcement recordkeeping did not always indicate whether they were linked to domestic violence.

The law provides for protection and housing rights for survivors, as well as counseling for the abuser; however, counseling for the abuser is not mandatory, and there were few shelters available to survivors. By law the penalty for violating a protection order is a monetary fine and imprisonment not to exceed one year for the first offense, two years for a second offense, and up to five years' imprisonment for subsequent offenses. The government operated a mobile phone application, the Family Welfare App, to facilitate reporting of domestic violence and child abuse.

On January 31, police arrested a man after fatally stabbing his girlfriend after she broke up with him following two years of domestic violence. The case was underway at year's end.

**Sexual Harassment:** The law prohibits sexual harassment, which is punishable by up to two years in prison, but sexual harassment continued to be a problem due to lax enforcement and because survivors often did not believe filing a complaint would resolve anything. There were, however, an increasing number of women denouncing sexual harassment cases on social media platforms.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Couples and individuals have the right to decide the number, spacing, and timing of their children and to manage their reproductive health. They had access to the information and means to do so free from discrimination, coercion, or violence. No legal, social, or cultural barriers or government policies adversely affected access to contraception, and all types of contraception were available at retail stores, pharmacies, and hospitals. Individuals younger than age 18 required parental permission to access health services. Individuals were able to access contraception and skilled health attendance during pregnancy and childbirth, as well as essential obstetric and postpartum care that the state provided free of charge in government-run hospitals. Emergency health care was available, including services for the management of complications arising from abortion. Medical staff, however, must report any postabortion complications, which meant many women did not seek medical assistance. The government provided access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception was available over the counter.

There were no reports of legal, social, or cultural barriers, including harmful practices, related to menstruation and access to menstruation hygiene that impacted women and girls' ability to participate equally in society, including any limits on a girl's access to education.

**Discrimination:** Men and women enjoy the same legal status and rights under the constitution and law. The courts upheld these rights. Nonetheless, cultural and societal barriers prevented women from fully exercising their legal rights, especially in some cases involving inheritance.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution and the law protect members of racial or ethnic minorities or groups from violence and discrimination, but the government was not always effective in enforcing the law.

For example, the government generally refused to release demographic information concerning civil service recruitment when it faced allegations that certain ethnic groups received preferential treatment.

Poverty continued to be more common among citizens of African descent (Creoles) than among those in any other community. There were violent and racist comments on social media.

## **Children**

**Birth Registration:** Children derive citizenship by birth within the country's territory if one or both parents are citizens of the country. Birth registration was not denied on a discriminatory basis. Authorities register births, and the law provides for late registration. Failure to register births resulted in denial of some public services.

**Child Abuse:** The law criminalizes certain acts compromising the health, security, or morality of a child, although the government was unable to ensure complete compliance, such as in child labor cases. NGOs asserted child abuse was more widespread than the government acknowledged or than survivors reported to authorities.

**Child, Early, and Forced Marriage:** The minimum legal marriage age for boys and girls is 16 with parental consent, but marriages of younger children were reported in the past. There was, however, no minimum age for religious marriages, which advocates pointed to as a loophole that could endanger young girls vulnerable to forced marriage.

**Sexual Exploitation of Children:** The law prohibits commercial sexual exploitation, sale, grooming, or using children for commercial exploitation. The law criminalizes child sex and child sex trafficking. The law prohibits child pornography and provides for a maximum penalty of 20 years' imprisonment and a monetary fine for each offense. The minimum age for consensual sex is 16. On July 29, police on Rodrigues Island arrested a man, age 29, for allegedly sexually abusing and filming a woman, age 18. Police found numerous pornographic videos and photos of minors on the man's cell phone. Police arrested two other men, and the investigation continued at year's end.

The government assisted victims of child abuse by offering counseling at a drop-in center in Port Louis and referring victims to government-supported NGO shelters. Both medical treatment and psychological support were available at public clinics and NGO centers.

**Institutionalized Children:** The law provides that a simple oath before a magistrate allows parents to have their children placed in the care of the Rehabilitation of Youth Center on the basis that they are "children beyond control." Once admitted, the children, some as young as eight or nine, could remain in detention until they reached the age of 18.

The NHRC stated that in 2020 the 33 children held in the Correctional Youth Center did not have access to primary and secondary education during their detention and imprisonment. Vocational training such as in plumbing or hairdressing was available at the correctional center on demand only after lengthy administrative procedures.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction at*

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish community consisted of approximately 120 persons, predominantly foreign residents. There were no reports of anti-Semitic acts during the year.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

Persons with disabilities cannot access education, health services, public buildings, or transportation on an equal basis with others. Authorities did not effectively enforce the law that requires equal access to public conveyances. Many buildings also remained inaccessible to persons with disabilities despite a legal requirement for public buildings to be accessible for them. The government implemented programs to provide persons with disabilities with access to information and communications, such as captions and sign language interpretation of news broadcasts. The state-run television station broadcasts a weekly sign-language-news program for persons with hearing disabilities. There is no provision, however, to make government websites accessible to persons with disabilities.

The law prohibits discrimination in employment against persons with physical, sensory, intellectual, and mental disabilities. The law stipulates that persons with disabilities must constitute at least 3 percent of a workforce of 35 or more employees, but authorities did not effectively enforce these provisions.

Children with physical disabilities have the right to attend mainstream schools, but, according to students with disabilities and their parents, schools often turned them away because they could not be accommodated. There is a regulatory authority to address and advocate for individuals with special needs, including children. Children with mental disabilities attended separate schools that received minimal government funding.

The government did not restrict the right of persons with disabilities to vote or participate in civic activities, although lack of accessible transportation posed a barrier to some voters with disabilities. The government provided wheelchairs to make polling stations more accessible to persons with disabilities and to elderly persons.

## **HIV and AIDS Social Stigma**

The law provides that persons with HIV or AIDS should be free from stigmatization and discrimination. There were no pending cases of discrimination against such persons or their relatives.

The local NGO Aide Infos Liberte Soldarite reported that authorities did not automatically grant HIV and AIDS patients social aid unless accompanied by a social worker to advocate their cases.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

Lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) victims of verbal abuse or violence generally did not file complaints with police due to ostracism or, in some cases, fear of reprisal from family members. In April the Passport and Immigration Office denied a transgender citizen living in France a new passport because the law does not recognize her as a woman after complete transition surgery. There were no developments at year's end.

The law does not specifically criminalize consensual same-sex sexual activity. It criminalizes sodomy, however, for both same-sex and heterosexual couples. The sodomy statute is a holdover from 19th century colonial law. Authorities rarely used the sodomy statute against same-sex couples, unless one of the partners cited sodomy in the context of sexual assault. Only one such case had been reported in the last 20 years, and it involved a gay man accusing his former partner of sodomy as part of a larger assault accusation. The majority of the cases in which the sodomy statute was invoked involved heterosexual couples engaged in legal proceedings. In November the Supreme Court heard evidence in a case challenging the constitutionality of the sodomy statute, which activists argue

violates constitutional rights to privacy and can be an obstacle to LGBTQI+ persons accessing health care. This is one of three cases against this statute, and activists initially filed this case in 2019. They were awaiting a ruling at year's end.

The National Blood Transfusion Service disqualifies men who have had anal or oral sex with other men from donating blood, following World Health Organization guidelines.

The law prohibits discrimination by state and nonstate actors against LGBTQI+ persons, particularly with respect to essential goods and services such as housing, employment, and access to government services such as health care. The government enforced such laws.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and law provide for the rights of all workers, including foreign workers, to form and join independent unions, bargain collectively, and conduct legal strikes. The law also prohibits antiunion discrimination.

Civil servants do not have the right to bargain collectively with the Pay Research Bureau, however, civil service trade union representatives do participate in the consultation process. Workers are free to form and join unions and to organize in all sectors, including in the export-oriented enterprises (EOE), formerly known as the export-processing zone. The law allows police officers to form and join unions but not to strike. The law provides for a commission to investigate and mediate labor disputes, and a program to provide unemployment benefits and job training. The law allows unions to conduct their activities without government interference but allows the government to cancel union registration if the registration was fraudulent, if the union engaged in activities that posed a serious threat to public safety, if it made resources available to a terrorist organization, if it violated the rules of the Registration of Associations Act, if it misapplied funds, or if it ceased to function. There were no reports, however, that the government exercised this right.

The law establishes a mandatory, complex, and lengthy process for declaring a

legal strike. This process calls for labor disputes to be reported to the Commission for Conciliation and Mediation only after meaningful negotiations have occurred and the parties involved have reached a deadlock. If the parties reach no compromise, the workers may call a strike. Even if workers follow this procedure, the law allows the government to prohibit a strike and refer the dispute to arbitration if the strike could seriously affect an industry or service or threaten employment. Strikes are not generally legal on matters that are already covered in a collective bargaining agreement. The law requires workers in many sectors to provide minimum service levels in the event of a strike, including sectors that international standards do not classify as “essential services.” The law prohibits strikes and other demonstrations during the sittings of the National Assembly and does not allow unions to organize strikes at the national level or concerning general economic policy topics.

Worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek a remedy in court if they believe their dismissals were unjustified. The law prohibits antiunion discrimination, but it does not provide for reinstatement of workers fired for union activity. Dismissed workers may turn to the Industrial Relations Court to seek redress.

National labor laws cover all workers in the formal and informal sectors, with exceptions in the EOE pertaining to overtime.

The government effectively enforced applicable laws, but there were delays in court procedures and appeals. Penalties for violations by employers were not commensurate with those for similar violations.

Freedom of association and the right to collective bargaining were generally respected by the government and most employers, and workers exercised these rights. Most unions collectively negotiated wages higher than those set by the National Remuneration Board. Worker organizations were independent of the government and political parties. There were no reports of government interference in union activities.

Despite the law, antiunion discrimination and dismissal remained a problem in the private sector. Some employers in the EOE reportedly continued to establish

employer-controlled work councils for EOE workers, effectively blocking union efforts to organize. Approximately 36,700 persons worked in the EOE; only 10 percent belonged to unions.

## **b. Prohibition of Forced or Compulsory Labor**

The law does not prohibit all forms of forced or compulsory labor. The International Labor Organization (ILO) noted provisions that allow for compelled labor from seafarers who do not follow orders and allow for the hiring out of prisoners to private companies without the consent of prisoners. The government did not effectively enforce the law. The government made some efforts to prevent and eliminate forced labor, but trade unions stated resources, inspections, and remediation were inadequate. Penalties for violations were criminal and commensurate to those for similar serious crimes. Data from the Ministry of Labor, Human Resource Development and Training on the number of victims removed from forced or compulsory labor during the year were not available.

Trade unionists reported cases of forced labor during the year among migrant workers involving underpayment of wages, substandard living conditions, and denial of meal allowances. Unions stated these situations took place in the construction and bakery sectors. As of October 31, there were 25,274 migrant workers in the country, mainly from Bangladesh, India, Sri Lanka, Nepal, the People's Republic of China, and Madagascar. In addition, Malagasy women reportedly transited the country while traveling to other countries, where employers subjected them to forced labor conditions.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits all the worst forms of child labor. The law prohibits the employment of children younger than 16 and prohibits employment of children younger than 18 in work that is dangerous, unhealthy, or otherwise unsuitable for young persons.

The Ministry of Labor, Human Resource Development and Training is responsible

for the enforcement of child-labor laws and conducted frequent inspections of businesses in the formal economy, but generally inspections did not occur after hours or in the informal sector where there was evidence of child labor. The ministry developed vocational training programs to prevent employment of underage children and conducted programs to identify and integrate street children into its vocational training program. These programs are preparatory professional training for school dropouts who are too young to enter the work force.

The government did not effectively enforce the law, especially in the informal sector. The penalties for employing a child were not commensurate with those for other violations. Traffickers and other criminals exploited children in sex trafficking and other illicit activities (see section 6, Children). Children worked primarily in the informal sector as street traders, and they also worked in agriculture, fishing, and construction.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations prohibit discrimination regarding race, sex, gender, disability, sexual orientation, HIV-positive status or having other communicable diseases, social status, religion, political opinion, and national origin. Domestic workers and workers in enterprises with fewer than 10 employees are excluded from legal protection from discrimination in hiring, according to the ILO. The law affords women broadly defined wage protections and requires equal pay for equal work for both men and women; it also states that employers should not force women to carry loads above certain weight limits (see section 6, Women). The Equal Opportunity Commission receives and acts on complaints, but the government did not effectively enforce the law. Penalties were not commensurate with those for similar violations.

Discrimination in employment and occupation occurred with respect to gender, race, disability, political affiliation, and HIV and AIDS status. While women had equal access to education, the private sector paid women less than men for substantially similar work. The ILO has expressed concern that the remuneration

regulations assign lower minimum wages for women than men in certain sectors. For example, both the Sugar Industry Regulations and the Tea Industry Regulations still include gender-specific job reservations and set different wage levels for men and women in the same job. Women filled few decision-making positions in the private sector, and there were even fewer women sitting on corporate boards, where approximately 6 percent of all board members were women (see section 6, Women).

The law requires organizations employing more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities, but the government was not always effective in enforcing this law (see section 6, Persons with Disabilities). The Training and Employment of Disabled Persons Board may summon an employer at any time to investigate noncompliance. The Board makes recommendations after an employer has justified its noncompliance, and if the employer still does not comply, then the employer may face a monetary fine and a term of imprisonment not exceeding six months. The main reasons for the low employment rate of persons with disabilities were inaccessible workplaces and a lack of adapted equipment.

Many community leaders claimed there was discrimination in the employment of Creoles (citizens of African descent) and Muslims of Indian origin in the public service (see section 6, Systemic Racial or Ethnic Violence and Discrimination). Migrant workers faced discrimination in employment and pay, which was consistently less than wages for workers who were citizens.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** Effective January 2020 the national minimum monthly wage was raised to 9,000 Mauritian rupees (\$214) for export workers and 9,700 Mauritian rupees (\$230) for nonexport workers, both above the poverty line. The actual market wage for most workers was much higher than the minimum wage due to a labor shortage and collective bargaining. In the private sector, the National Remuneration Board sets minimum wages for nonmanagerial workers outside the EOE.

The law provides for a standard workweek of 45 hours and paid annual holidays,

requires premium pay for overtime, and prohibits compulsory overtime. By law employers cannot force a worker outside the EOE to work more than eight hours per day, six days per week. A worker (other than a part-time worker or a watchperson) and an employer may agree, however, to have the employee work in excess of the stipulated hours without added remuneration, if the number of hours covered in a 14-day period does not exceed 90 hours or a lesser number of hours as agreed to by both parties.

The standard legal workweek in the EOE is 45 hours. According to the Mauritius Labor Congress, 10 hours of overtime a week is nonetheless mandatory at certain textile factories in the EOE. Regulations require remuneration for those who work more than their stipulated hours at one and a half times the normal salary rate. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary rate. The law provides for paid annual holidays but does not prohibit compulsory overtime in the EOE. For industrial positions, regulations do not permit workers to work more than 10 hours a day. The law requires the Ministry of Labor, Human Resource Development and Training to investigate cases of overtime violations. If an employer fails to take action to address the violations, the ministry may initiate a court action.

Ministry of Labor, Human Resource Development and Training officials are responsible for the enforcement of wage and hour laws. The number of labor inspectors was not sufficient to enforce compliance. Inspectors have the authority to make unannounced inspections and initiate sanctions. As of June 1, the ministry made 354 labor inspections to construction sites and dormitories.

The government did not enforce the law effectively. While the government generally enforced wages in the formal sector, there were reports employers demoted workers to part-time status to evade wage and hour requirements. Penalties were not commensurate with those for similar violations and were seldom applied in the informal sector, which was estimated to include at least 10 percent of all workers. Unions reported cases of underpayment for overtime in the textile and apparel industries due to differences in existing legislation and remuneration orders for the calculation of overtime hours.

**Occupational Safety and Health:** The government sets appropriate occupational

safety and health standards, and the responsibility for identifying unsafe conditions lies with inspectors. By law workers can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in these situations; workers did not generally exercise this right.

Ministry of Labor, Human Resource Development and Training officials inspected working conditions. The ministry employed labor and industrial relations officers, including labor inspectors in the Migrant Labor Unit, to investigate all reports of labor abuses. Despite an increase in the number of inspectors in the Migrant Labor Unit, trade unions called attention to the fact that numbers remained insufficient to enforce compliance. Penalties were not always commensurate with those for similar violations. Authorities generally applied these standards to both foreign and citizen workers except in the informal sector.

Employers did not always comply with safety regulations, resulting in occupational accidents. As of June 30, there were 34 industrial accidents and no deaths, according to the Ministry of Labor, Human Resource Development and Training. Subsequent press stories reported two deaths in the construction sector. For example, on August 18, an excavation operator was killed on a construction site after he was buried under a pile of rocks.

**Informal Sector:** According to a 2013 official government report, the most recent data available, informal workers comprised 10 percent of the workforce, mainly working in construction, transportation, and auto repair. The ILO has reported much higher numbers of informal workers constituting more than 50 percent of total nonagricultural employment. Labor laws applied to the informal sector, but they were seldom enforced, and penalties were not applied. Wage, hour, and safety violations were prevalent in the construction, agriculture, auto repair, and seafaring trades. According to a government official, during the year workers in the informal sector comprised mainly minors and women serving street food. There was an increasing number of migrant workers in the informal sector, the official stated.